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April 12, 2023

VIA ECF

The Honorable Jennifer L. Rochon
U.S. District Court, S.D.N.Y.
500 Pearl Street, Room 1920
New York, NY 10007

**Re: Calcagno-King v. Goulette et al.,
Case Docket No.: 21-CV-8059-JPO**

Dear Judge Rochon:

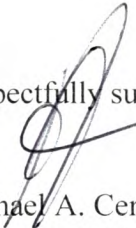
I represent the plaintiff in the above action.

I would like to subpoena my client's workers' compensation file to the Records Management office of the Court.

I called the NYS Workers' Compensation Board and was advised that they will only respond to a subpoena that is signed by Your Honor.

I attach one herein for Your Honor's review.

Respectfully submitted,



Michael A. Cervini
cervini07@yahoo.com

cc: **via ECF:** Jessica Klotz, Esq.

Request DENIED. As the Court stated when denying a similar request by Defendants, *see* ECF No. 34, an attorney authorized to practice in the court is permitted to issue a subpoena, Fed. R. Civ. Proc. 45(a)(3), and such a subpoena "is a mandate of the court sufficient to require compliance," *Palau v. TMC Transp. Inc.*, No. 20-cv-3242 (JPC), 2021 U.S. Dist. LEXIS 4878, at *2 (S.D.N.Y. Jan. 9, 2021) (internal citation omitted). Therefore, because an order is not required for a subpoena, Plaintiff's request is denied. Should the recipient fail to comply with a properly issued subpoena, Plaintiff may move to compel under Fed. R. Civ. Pro. 37(a) and request an order to show cause why the recipient should not be held in contempt. *See* Fed. R. Civ. P. 45(g). If a motion to compel is successful, "the party or deponent whose conduct necessitated the motion, the party or attorney advising that conduct, or both" may be ordered "to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees." Fed. R. Civ. Proc. 37(a)(5). **SO ORDERED.**

Dated: April 13, 2023

New York, New York


JENNIFER L. ROCHON
United States District Judge